

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. C 14-01781 WHA

v.

1.41 ACRES OF LAND, more or less, situated
in the City of Alameda, Alameda County, State
of California, and THE STATE OF
CALIFORNIA, acting by and through its
Department of Parks and Recreation, and the
EAST BAY REGIONAL PARK DISTRICT,

Defendants.

**ORDER FOLLOWING
FEBRUARY 25 DISCOVERY HEARING
AND ORDER RE MOTION TO
CONTINUE DEADLINES**

On February 25, the parties appeared for a discovery hearing following an in-person meet-and-confer. The remaining issues are: (1) whether to sustain or overrule the United States' assertion of the deliberative process privilege over documents regarding future plans for the parcel, dated 2014 and 2015; and (2) whether the United States should be required to produce a Rule 30(b)(6) witness on certain topics (Dkt. No. 52-1, Exh. A). The declaration of taking was filed in April 2014, and an amended declaration of taking was filed in December 2014.

Since privilege is in play, this order will allow both sides the opportunity to brief the issue on a sworn record, especially for appellate review. It would be appreciated if counsel could please take the time to fully research all decisions on point; namely, whether the deliberative process privilege has ever been invoked and upheld to block discovery in an eminent-domain action (or overruled). The schedule shall be as follows:

1. The United States has until **MARCH 11 AT NOON**, to file a formal motion for a protective order. Appended to that motion must be a sworn declaration identifying in tabular format each and every document for which privilege or relevance is asserted. That table must

include all information normally included on a privilege log (*e.g.*, date, to and from lines, subject line, whether it was an email, letter, memorandum, etc.). Please number the table so that specific entries can be referenced and discussed in the brief. The brief should address why each document (or categories of documents) should not be turned over and on what grounds (*e.g.*, relevance, deliberative process privilege, attorney-client privilege, etc.). Please bring all such documents to the discovery hearing for potential *in camera* review.

2. Defendants have until **MARCH 19 NOON**, to file a joint opposition brief (not to exceed 25 pages total). The brief should specifically spell out why good cause has been shown to turn over each specific document and the specific discovery request the document is responsive to.

3. The United States has until **MARCH 26 AT NOON**, to file a reply brief. A hearing will be held on **TUESDAY, APRIL 7 AT 8:00 A.M.**

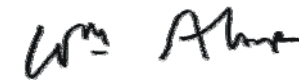
4. To the following extent, defendant East Bay Regional Park District's Rule 56(d) motion is **GRANTED** (Dkt. No. 60). The deadline for defendants to file opposition briefs is hereby continued from March 3 to **APRIL 10 AT NOON**. Defendants shall please file one joint opposition brief (not to exceed 45 pages total). The United States' reply in support of its motion for partial summary judgment (not to exceed twenty pages total) is due by **APRIL 16 AT NOON**.

The March 26 hearing on the United States' motion for partial summary judgment is continued to **APRIL 30 AT 8:00 A.M.**

5. All existing deadlines remain in place.

IT IS SO ORDERED.

Dated: February 25, 2015.



 WILLIAM ALSUP
 UNITED STATES DISTRICT JUDGE